

## Remarks

### A. Art of record

1. Pending rejections, all based on § 103, are made in view of the following references:
  - a. McFatter – US Pat. 4,074,847;
  - b. Bachhofer – German Pat. 19939180 and Derwent English abstract.
2. Examiner has withdrawn previous rejections based on Johnson, US Pat. 6,000,261; Lipp, US Pat. 3,863,479; Bachhofer, German Pat. 19939180 and Derwent English abstract; Kelly, US Pat. 3,838,496; and McFatter, US Pat. 4,121,747.

### B. Brief history of the case

1. This application was filed on Oct16.2006 as a national phase of a PCT application claiming priority from a US provisional application filed Apr12.2004. The date of completion of all 35 USC § 371 requirements was Jul12.2007.
2. A first office action ("OA1") rejecting Claims 1-26 was entered on or about Feb12.2009, to which a response was filed on Aug12.2009.
3. A response to OA1 was filed on or about Aug12.2009.
4. Final office action ("OA2") rejecting Claims 1-26 was entered on or about Dec01.2009.
5. A Request for Continuing Examination and a response to OA2 were filed on Mar01.2010, including new claims 27-50.
6. The present, non-final office action was filed on May19.2010.

### C. Amendments to the specification

1. In the previous paper filed by Applicant a number of amendments were made to the specification, identified as Specification Amendments 1-6. OA3 objected to Specification Amendment 4. OA3 did not object to Specification Amendments 1-3, 5 or 6, but there was no indication that the amendments were entered. Consequently, Applicant assumes that there are no objections to Specification Amendments 1-3, 5, and 6 and they have been entered.
2. With respect Specification Amendment 4, to which objection was made, Examiner has kindly provided language that would overcome the objection.
3. Paragraph [0058] is amended by this paper to conform to the language provided by Examiner with the further refinement that the first roller track side is that part of metal sheet **30** that is continuous with upper edge **36** and bend **42**. This more precisely distinguishes the part of

metal sheet 30 of FIG 6a designated with the lower numeral "30" as the relevant area and avoids any possible ambiguity.

D. Grounds for traversing or overcoming the current rejections

1. Pursuant to an agreement reached during the phone interview of Jun07.2010, Claims 1 and 14 are canceled by this paper. The rejections of those claims are now moot.
2. During the phone interview of Jun07.2010 it was agreed by the examiner that the art of record in this case does not disclose the roller track having opposing roller track sides. More specifically, element 25 of Bachhofer has been deemed not to be a disclosure of a track having opposing roller track sides. Consequently, independent claims 27 and 40 were deemed allowable over the art of record, specifically MacFatter and Bachhofer.
3. Claims 27 - 50 are cancelled by this paper and re-written *verbatim* as Claim 51 - 72 in order to overcome a numbering error. Previous independent Claim 27 is now Claim 51 and previous independent Claim 40 is now Claim 62. There has been no modification of any claim other than the claim numbers.
4. Consequently, the agreement to withdraw the § 103 rejections of previous claims 27-50 now applies to new claims 51-72.

E. Nature and effect of the present amendments

1. Objections to the specification are removed by amending paragraph [0058] according to the language provided by Examiner.
2. Rejections of Claims 1 and 14 are mooted by cancellation of those claims.
3. Objections to the claims have been overcome by cancelling the offending claims and renumbering.
4. The § 103 rejections of Claims 27-50, now Claims 51-72, in view of MacFatter and Bachhofer are no longer valid as a result of the PTO's admission that the references, alone or in combination, do not disclose a roller track having opposing roller track sides spaced apart to accommodate rollers that support a tank while it is being built.
5. Because the additional search proposed by the examiner is not required as a result of any claim amendments or as a result of any information disclosure statement, any new grounds of rejection that may be entered in the next office action cannot properly be made by way of a final office action. MPEP 706.07(a). In the event further rejections are deemed appropriate, Applicant respectfully requests a non-final office action and adequate opportunity to respond.

F. Summary

1. The undersigned gratefully acknowledges the examiner's very detailed and comprehensive office action, which has clearly set forth the Office's grounds for rejections, has defined the art, and has pinpointed certain deficiencies of the application, which deficiencies the applicant has endeavored to overcome.
2. Wherefore, Applicant respectfully submits all grounds for objection and rejection are overcome and that the present claims are in allowable form and claim over the prior art. Applicant requests allowance of new claims, Claims 51-72, and the grant of letters patent on these claims.

Respectfully submitted,  
Mark Vanderbeken, Applicant

Date: Jan 15, 2010

by:



Denis O'Brien, Attorney for Applicant  
USPTO Registration No. 42,947

Vermette & Co.  
Suite 320  
1177 W. Hastings St.  
Vancouver, British Columbia  
Canada V6E 2K3  
Tel: 604-331-0381, Fax: 604-331-0382

**Certificate of Electronic Filing**

I certify that on the date entered below I will electronically transmit this correspondence to the Commissioner for Patents, POB 1450, Alexandria, Virginia, 22313-1450 by transmission through the USPTO Electronic Filing System.

Date:

Jan 15, 2010

